

AMENDED IN ASSEMBLY MAY 5, 2005

AMENDED IN ASSEMBLY APRIL 20, 2005

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CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 820

Introduced by Assembly ~~Member Strickland~~ *Members Strickland, Chavez, and Levine*
(~~Coauthors: Assembly Members Chavez and Levine~~)

February 18, 2005

An act to amend Sections 2117, 2125, 2150, 2150.4, and 2150.5 of, and to add Sections 2157, 2193, and 2195 to, the Fish and Game Code, relating to captive wild animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 820, as amended, Strickland. Wild animals.

(1) Existing law prohibits the importation into this state of wild animals specified on a list published by the State Department of Health Services without a permit issued by that department, except that existing law does not authorize the importation, transportation, or possession of live animals enumerated in specified provisions of the Fish and Game Code or regulations of the Fish and Game Commission adopted pursuant thereto. Those Fish and Game Code provisions prohibit the importation, transportation, possession, or release into this state of certain wild animals without a permit issued by the Department of Fish and Game (hereafter department). Existing law defines “enforcing officers” for the purposes of provisions regulating the importation, transportation, and sheltering of restricted live animals. Existing law establishes civil penalties for a violation of

specified provisions and requires fees collected pursuant to the provisions relating to wild animals to be deposited in the Fish and Game Preservation Fund. Existing law permits the department or an eligible local entity to issue a written permit to import into this state, possess, or transport within this state any specified wild animal, upon a determination that the animal is not detrimental or that no damage or detriment can be caused to agriculture, native wildlife, the public health or safety, or the welfare of the animal and requires the department or an eligible local entity to inspect the wild animal facilities. Existing law requires the department, on or before May 1, 1991, to establish and keep current written policies relating to the housing, possession, importation, and transportation of wild animals. Existing law also requires the commission to revoke or deny a permit under certain circumstances.

This bill would modify the definition of “enforcing officers” and would specify that enforcing officers are authorized and empowered to enforce provisions and regulations relating to the importation, transportation, and sheltering of restricted live animals. The bill would prohibit the issuance of a permit to breed specified wild animals unless the person holds an American Association of Zoos and Aquariums permit, a research permit, or a single event breeding for exhibitor permit. The bill would specify that no new single event breeding for exhibitor permit would be issued until the department adopts and implements specified policies. The bill would allow the department to revoke or deny a permit under specified circumstances. The bill would prohibit an eligible local entity from inspecting a wild animal facility if that local entity is employed by, or receives compensation from, the wild animal facility, and would require the department, no later than ~~March 31, 2006~~ *January 1, 2007*, to develop, implement, and enter into memorandums of understanding with eligible local entities if the department elects not to inspect every wild animal facility.

The bill would require every person holding a wild animal permit to implant a microchip in or tattoo the animal with an identification number, and to report the identification number of either to the department, for maintenance in a registry, unless a veterinarian determines that a microchip or a tattoo would endanger the well-being of the animal. In that circumstance, the bill would require an alternative identification number to be affixed or assigned to the animal, as determined by the department. The bill would require the

department, on or before March 31, 2006, to establish and keep current written policies relating to the housing, possession, importation, and transportation of wild animals, including responding to an escape of a wild animal. The bill would require any person who possesses a permit for the importation or transportation of a wild animal to immediately report the escape or release of the animal, and would make the possessor liable for all expenses associated with efforts to recapture the animal. The bill would require any person who possesses a permit for the importation or transportation of a wild animal to provide prior notice to the department relating to certain action taken in connection with, or related to, the animal, except under specified circumstances. The bill would require a person claiming a confiscated wild animal to post a security bond or cash with the department in order to reclaim physical possession of that animal. The bill would permit the new possessor of a specified wild animal to bring a civil action against the previous possessor for all reasonable costs incurred by the new owner for the relocation of the animal and costs necessary to return the animal to a healthy state, if the animal is confiscated by the department and subsequently transferred to a new owner. The bill would expand the civil penalty for any person who violates certain wild animal provisions.

(2) Existing law generally provides that a violation of the fish and game laws is a crime.

Because this bill would impose additional requirements on every person holding a specified wild animal permit for which a violation thereof would be a crime, this bill would impose a state-mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2117 of the Fish and Game Code is
2 amended to read:

1 2117. As used in this chapter, “enforcing officers” means the
2 department, the state plant quarantine officers, the local law
3 enforcement agents, the county sheriffs, and the county
4 agricultural commissioners. These enforcing officers are
5 authorized and empowered to enforce the provisions of this
6 chapter or any regulation implementing this chapter.

7 SEC. 2. Section 2125 of the Fish and Game Code is amended
8 to read:

9 2125. (a) In addition to any other penalty provided by law,
10 any person who violates this chapter or any regulations
11 implementing this chapter, is subject to a civil penalty of not less
12 than five hundred dollars (\$500) nor more than ten thousand
13 dollars (\$10,000) for each violation.

14 (b) The Attorney General, or the city attorney of the city or the
15 district attorney or county counsel of the county in which a
16 violation of this article occurs, may bring a civil action to recover
17 the civil penalty in subdivision (a) and the costs of seizing and
18 holding the animal listed in Section 2118, except to the extent
19 that those costs have already been collected as provided by
20 subdivision (d). The civil action shall be brought in the county in
21 which the violation occurs and any penalty imposed shall be
22 transferred to the Controller for deposit in the Fish and Game
23 Preservation Fund in accordance with Section 13001.

24 (c) In an action brought under this section, in addition to the
25 penalty specified in subdivision (a), the reasonable costs of
26 investigation, reasonable attorney’s fees, and reasonable expert
27 witness’ fees may also be recovered and those amounts shall be
28 credited to the same operating funds as that from which the
29 expenditures for those purposes were derived.

30 (d) (1) If an animal is confiscated because the animal was
31 kept in contravention of this chapter or any implementing
32 regulations, the person claiming the animal shall post a security
33 bond or cash with the department in an amount sufficient to
34 guarantee payment of all reasonable expenses expected to be
35 incurred in caring for and providing for the animal for at least 30
36 days, including, but not limited to, the estimated cost of feeding,
37 medical care, and housing.

38 (2) If the person claiming the animal fails to comply with the
39 terms of his or her permit and to regain possession of the animal
40 after the expiration of the first 30-day period, the department may

1 dispose of the animal at the end of the 30 days, unless the person
2 claiming the animal posts an additional security bond or cash
3 with the department before the expiration of the first 30-day
4 period, to secure payment of all reasonable expenses expected to
5 be incurred in caring for and providing for the animal for an
6 additional 30 days.

7 (3) The amount of the security bond or cash shall be
8 determined by the department, and shall be based on the current
9 rate to feed, provide medical care to, and house the animal.

10 SEC. 3. Section 2150 of the Fish and Game Code is amended
11 to read:

12 2150. (a) (1) The department or an eligible local entity, in
13 cooperation with the Department of Food and Agriculture, may,
14 upon application, issue a written permit to import into, possess,
15 or transport within this state any wild animal designated as
16 detrimental pursuant to Section 671 of Title 14 of the California
17 Code of Regulations, upon a determination that the animal is not
18 detrimental or that no damage or detriment can be caused to
19 agriculture, native wildlife, the public health or safety, or the
20 welfare of the animal, as a result of the importation,
21 transportation, or possession. No permit shall be issued to breed
22 within this state any wild animal enumerated in, or designated
23 pursuant to, Section 2118, unless the person holds an American
24 Association of Zoos and Aquariums (AZA) permit, a research
25 permit, or a single event breeding for exhibitor permit, as
26 described in paragraph (3), (5), or (6) of subdivision (b) of
27 Section 671.1 of Title 14 of the California Code of Regulations.

28 (2) No new single event breeding for exhibitor permit shall be
29 issued until the department adopts and implements both of the
30 following:

31 (A) A policy setting forth the procedure for the issuance of a
32 single event breeding for exhibitor permit, that includes, but is
33 not limited to, specific criteria to demonstrate that the breeding is
34 necessary.

35 (B) A policy specifying how this paragraph is to be enforced.

36 (3) A permit shall be issued only upon application and
37 payment of a nonrefundable application fee in an amount
38 determined by the department pursuant to Section 2150.2.
39 Application forms shall be provided by the department, or an
40 eligible local entity, and shall be designed to ascertain the

1 applicant's ability to properly care for the wild animal or animals
2 the applicant seeks to import, transport, or possess. Proper care
3 includes providing adequate food, shelter, and veterinary care,
4 and other requirements the commission may designate.

5 (b) The commission or the department shall revoke or deny a
6 permit if it finds that a permittee or applicant has failed to meet,
7 or is unable to meet, the requirements for importing, transporting,
8 possessing, or confining any wild animal as established pursuant
9 to Section 2120.

10 (c) A zoo is exempt from any permit requirement pursuant to
11 this chapter except for animals whose importation, transportation,
12 or possession is determined by the department, in cooperation
13 with the Department of Food and Agriculture, to be detrimental
14 or cause damage to agriculture, native wildlife, or the public
15 health or safety. For purposes of this section, "zoo" means any
16 organization which is accredited as meeting the standards and
17 requirements of the American Association of Zoological Parks
18 and Aquariums (AAZPA). Any California organization which is
19 not accredited by the AAZPA may apply to the department for a
20 waiver of specified permit requirements of this chapter. The
21 department may grant or deny the request for a waiver for
22 justified reasons. Foreign zoos outside this state are not subject to
23 the permit requirements of this chapter beyond those specific
24 permit requirements affecting California zoos or organizations
25 with which they are collaborating. Any organization may appeal
26 the determination of the department to the commission.

27 (d) An exhibitor licensed by the United States Department of
28 Agriculture or a dealer who is so licensed who buys any animal
29 specified in subdivision (c) from a zoo within the state, may sell
30 or transfer it only to a private individual who has a permit issued
31 pursuant to this section prior to the receipt of the animal or to a
32 public or private organization that has a permit issued pursuant to
33 this section prior to the receipt of the animal. The exhibitor or
34 dealer who sells or transfers that animal shall pay a fee pursuant
35 to Section 2150.2 to the department.

36 (e) Any university, college, governmental research agency, or
37 other bona fide scientific institution, as determined by the
38 department, engaging in scientific or public health research is
39 exempt from any permit requirement pursuant to this chapter
40 except for animals whose importation, transportation, or

1 possession is determined by the department, in cooperation with
2 the Department of Food and Agriculture, to be detrimental or
3 cause damage to agriculture, native wildlife, or the public health
4 or safety.

5 SEC. 4. Section 2150.4 of the Fish and Game Code is
6 amended to read:

7 2150.4. (a) Consistent with Section 3005.91, the department
8 or an eligible local entity shall inspect the wild animal facilities,
9 as determined by the director's advisory committee, of each
10 person holding a permit issued pursuant to Section 2150
11 authorizing the possession of a wild animal.

12 (b) In addition to the inspections specified in subdivision (a),
13 the department or an eligible local entity, pursuant to the
14 regulations of the commission, may inspect the facilities and care
15 provided for the wild animal of any person holding a permit
16 issued pursuant to Section 2150 or the facilities and care
17 provided for any wild animal in any zoo, for the purpose of
18 determining whether the animal is being cared for in accordance
19 with all applicable statutes and regulations. The department or
20 the eligible local entity, whichever conducts the inspection, shall
21 collect an inspection fee, in an amount determined by the
22 department pursuant to Section 2150.2. If the eligible local
23 agency conducts the inspection, it shall transmit the fee to the
24 department.

25 (c) An eligible local entity shall not conduct inspections of
26 wild animal facilities pursuant to subdivision (a) or (b) if that
27 local entity is employed by, or receives compensation from, the
28 wild animal facility being inspected. The payment of statutory
29 inspection fees to the eligible local entity does not constitute
30 employment or compensation for purposes of this subdivision.

31 (d) No later than ~~March 31, 2006~~ *January 1, 2007*, the
32 department, in cooperation with the committee created pursuant
33 to Section 2150.3, shall develop, implement, and enter into
34 memorandums of understanding with eligible local entities if the
35 department elects not to inspect every wild animal facility
36 pursuant to subdivisions (a) and (b).

37 SEC. 5. Section 2150.5 of the Fish and Game Code, as added
38 by Section 8 of Chapter 789 of the Statutes of 1990, is amended
39 to read:

1 2150.5. (a) The department shall, on or before March 31,
2 2006, establish, and thereafter keep current, written policies and
3 procedures to implement the animal housing, possession,
4 importation, and transportation requirements pursuant to this
5 chapter. The department shall provide copies of the policies and
6 procedures to interested parties upon request.

7 (b) The policies and procedures shall include, but not be
8 limited to, criteria for all of the following:

9 (1) Receiving, processing, and issuing a permit or permit
10 application, and conducting inspection activities.

11 (2) Contracting out inspection activities.

12 (3) Responding to public reports and complaints.

13 (4) Notification of the revocation, termination, or denial of
14 permits, and related appeals.

15 (5) Responding to an escape of a wild animal, including the
16 establishment of guidelines for the safe recapture of the wild
17 animal and procedures outlining when lethal force would be used
18 to recapture the wild animal.

19 (c) The department shall make proposed policies and
20 procedures available to interested parties before their
21 implementation. The department may receive and incorporate
22 comments and recommendations on the policies and procedures
23 from interested parties.

24 SEC. 6. Section 2157 is added to the Fish and Game Code, to
25 read:

26 2157. (a) (1) Except as provided in subdivision (b), every
27 person holding a permit issued pursuant to Section 2150 shall, at
28 his or her expense, implant a microchip in the wild animal, by or
29 under the supervision of a veterinarian, or tattoo the wild animal
30 with an identification number, unless a veterinarian determines
31 that implanting a microchip in the wild animal or tattooing the
32 wild animal would endanger the well-being of the wild animal.

33 (2) The person shall report the microchip identification
34 number or the tattoo identification number, whichever is
35 applicable, to the department to maintain in a registry.

36 (b) In the event that a veterinarian determines that a microchip
37 or a tattoo would endanger the well-being of the wild animal, an
38 alternative identification number shall be affixed or assigned to
39 the animal, as determined by the department.

1 SEC. 7. Section 2193 is added to the Fish and Game Code, to
2 read:

3 2193. (a) Every person who holds a permit issued pursuant
4 to Section 2150 shall immediately report the intentional or
5 unintentional escape or release of the wild animal, to the
6 department and the nearest enforcing officer of the city or county
7 in which the wild animal resides. The possessor of the wild
8 animal shall be liable for all expenses associated with efforts to
9 recapture the wild animal.

10 (b) Every person who holds a permit issued pursuant to
11 Section 2150 shall notify the department at least 10 days prior to
12 obtaining physical possession of the animal. The notice shall
13 include the common name, scientific name, sex, and age of the
14 animal, the date of acquisition, and the identification number of
15 the animal, as required pursuant to Section 2157. This
16 subdivision shall not apply if the department has determined that
17 the wild animal shall be acquired immediately by a permitted
18 person.

19 (c) Every person who holds a permit issued pursuant to
20 Section 2150 shall notify the department at least 10 days prior to
21 transferring or relocating the wild animal. The notice shall
22 include the common name, scientific name, sex, and age of the
23 animal, the date the animal was acquired, and the identification
24 number of the animal, as required pursuant to Section 2157. This
25 subdivision shall not apply if the department has determined that
26 the wild animal shall be immediately transferred or removed to a
27 permitted facility or out of state.

28 (d) Every person holding a permit issued pursuant to Section
29 2150 shall immediately notify the department of the death of the
30 animal. The notice shall include the common name, scientific
31 name, sex, and age of the animal, the date the animal was
32 acquired, and the identification number of the animal, as required
33 pursuant to Section 2157.

34 SEC. 8. Section 2195 is added to the Fish and Game Code, to
35 read:

36 2195. The new possessor of a wild animal designated as
37 detrimental pursuant to Section 671 of Title 14 of the California
38 Code of Regulations may bring a civil action against the previous
39 possessor of the wild animal when that wild animal has been
40 properly confiscated by the department, to recover all reasonable

1 costs incurred by the new possessor for the relocation of the
2 animal to the new facility, fees for the construction of caging that
3 has been incurred by the facility to house the wild animal, and
4 costs necessary to return the animal to a healthy state, to the
5 extent that the department has not already collected the costs
6 pursuant to subdivision (d) of Section 2125. The previous
7 possessor shall be liable for costs necessary to return the animal
8 to a healthy state only if the health conditions existed at the time
9 of confiscation, and were caused by the previous possessor.

10 SEC. 9. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the
15 penalty for a crime or infraction, within the meaning of Section
16 17556 of the Government Code, or changes the definition of a
17 crime within the meaning of Section 6 of Article XIII B of the
18 California Constitution.